582 597 relationship by milk. As is well known, Mohammed had an adopted son, his own emancipated slave named Zaid ibn Ḥâriṯah, who had a beautiful wife, at least beautiful in the eyes of the Prophet. Mohammed persuaded Zaid to divorce her and thus to make it possible for the Prophet to marry her. The faithful, however, were greatly scandalized, for the "sinless" Prophet married the wife of his "son". Mohammed seemed to have no way of extricating himself from this awkward position, but fortunately Allah had pity on him and favoured him with another revelation according to which all fosterage is sinful and non-existent. If anyone dares to call another person by the name of "father" and if that person did not actually beget him, he will infallibly be cursed by Allah and all His Angels.[104] In the Caucasus children are adopted and, as is the case with the Cherkess today, enjoy the full and equal rights of natural sons and daughters.[105] M. Kovalevskij found adoption in practice among the Ossetes. Here too the adopted son would be regarded as a true "son" who was able to perpetuate the family.[106] Formerly fictitious relationship could arise among the Cherkess by a mere pronouncement of the formula, "I adopt you," or "You are my daughter," or "You are my sister." From that moment the person adopted would have to consider the relatives of the person who pronounced the formula, as his own. A murderer could form a fictitious relationship in Ossetia by consecrating himself to his victim in a special ceremony at his grave.[107] Among the Ossetes adoption sometimes took place before the mother of the family. The person to be adopted would say to her, "From today on you are my mother; I am your son." The mother would then uncover her breast and answer, "I am your mother; you are my son."[108] As is only to be expected, adoption occurs very rarely, in fact only in extreme necessity to prevent extinction of the family. Adoption cannot be frequent because the mountaineers insist on purity of blood, and to adopt a child unnecessarily would imply giving away family property to a fictitious member.[109] Owing to the lack of data, we can only call the attention of the fieldworker to the following two problems: firstly, exactly *which* tribes consider adoption an impediment to mating; secondly, to which degree of fictitious relationship.

[60] [638] [928]

4. Disparity of Social Rank

565 [582] We now come to the obligation of marrying exclusively within one's own social rank. But before we can begin to speak of this form of endogamy we must briefly describe the social stratification in the Caucasus.

The NORTHWESTERNERS. The *Abkhazian* society was formerly divided into four distinct classes: (1) the princes, (2) the *Chinakma*, i. e., the

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[104] Koran, xxxiii, 5. Cf. J. Henninger, *Die Familie bei den heutigen Beduinen Arabiens und seiner Randgebiete*, Leiden, 1943, p. 64. Juynboll, *op. cit.*, p. 187. R. Roberts, *Das Familien-, Sklaven- und Erbrecht im Qorân*, Leipzig, 1908, pp. 39 ff.

[105] Ladyženskij, FT, p. 202.

[106] Kovalevskij, *Coutume contemp.*, p. 203.

[107] Kovalevskij, *op. cit.*, p. 204.

[108] *ibid.*

[109] Kovalevskij, *op. cit.*, p. 203.

582 The NORTHWESTERN CAUCASIANS. No one will take it amiss if an old Kabardian marries a young girl. Although the Cherkess tribes along the coast of the Black Sea strongly discourage such pairing, disparity of age is not considered a marriage impediment.[167] While on his expedition in Circassia in 1927, Ladyženskij found no case of a young *man* marrying an old lady.[168]

Taking the Avars as an example of the NORTHEASTERNERS—marriages between rich old men of 50 to 60 and girls of 12 were not uncommon in the last part of the nineteenth century.[169]

Although neither customary nor Islamic law establish an absolute minimum age,[170] the *adats* sometime determine a *relative* marriage age. Thus a young man sometimes may not marry before his older brother, as is the case, for example among the Chechens[171] and the Cherkess.[172] Only if his brother happens to be [428] far from home and gives his explicit permission, may he marry. Anyone acting contrary to this customary law would *ipso facto* lose all rights to the family inheritance. In spite of this heavy sanction, the bride-price *(kalym)* would be paid for the offender and the marriage would be considered valid. The *adats* of the Cherkess are even stricter about girls marrying before their older sisters. To marry without her parents' permission before her older sister would bring upon her the curse of the family; in fact, they would even refuse the "filthy" brideprice. The motive behind these customs is to assure a marriage for the older members of the family before they become too old.[172a]

2. Debt as an Impediment

[426] According to the adat collection of the Dzher, Kist, Galgai, Tsori, Ingushi and Karabulak tribes a father may not give his daughter in marriage to anyone before he receives permission from his creditor.[173]

3. The Obligation of Proving One's Bravery before Marriage

171 582 Baddeley informs us of another very peculiar marriage impediment. "In Deedo-land, formerly, no man would give his daughter or sister in marriage to a suitor who had not at least one Georgian right hand or arm nailed to the wall of his dwelling."[174] This was, no doubt, intended as a proof of the lover's mettle before the father of the girl would give his consent.[175] Such tests as a *conditio sine qua non* for marriage are found throughout the world, sometimes

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[167] Ladyženskij, FT, pp. 196 f. Castagné, *op. cit.*, p. 259.

[168] Ladyženskij, *op. cit.*, p. 196.

[169] L'vov, "Domašnjaja i semejnaja žizn etc.," p. 20 *note*.

[170] This is especially evidenced by the widespread practice of infant betrothal and marriage in the North Caucasus and neighbourhood (*infra*, pp. 76, 78 ff).

[171] Erckert, *Der Kaukasus*, p. 138.

[172] Ladyženskij, *op. cit.*, p. 196.

[172a] *ibid.*

[173] Leontovič, II, p. 135, § 8.

[174] Baddeley, *The Rugged Flanks of Caucasus*, II, p. 81.

[175] This seems to have been a shortlived observance.

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The *khatun-tallkh* is a much stronger oath than any other in Daghestan, even stronger than an oath on the Koran. The wife, therefore, may be the innocent victim of her husband's falsehood. 586 695

The *khatun-tallkh*, according to Robertson-Smith (*Kinship in Early Arabia*, p. 77) and Kohler ("Ueber das vorislamitische Recht der Araber," *Zeitschr. f. vergl. Rechtsw.*, VIII [1888], pp. 246, 251) is a pre-Islamic oath incorporated into Islamic law. Kovalevskij, who cites both authors, maintains that Islamic missionaries are responsible for the practice in Daghestan.[20] We cannot deny the possibility of Islamic origin, but mere similarity is no sufficient proof. If such argumentation were methodologically indisputable, we should be justified in concluding that the levirate, polygyny, divorce, and other institutions have been imported from Arabia. All that we wish to say is that it is not at all so certain that the Caucasian *khatun-tallkh* is of Islamic origin, as Kovalevskij would have us believe. An oath, by its very nature, seeks the strongest sanction possible. Now, we have shown, when treating of the attitude of the Caucasians toward plurality of wives, how highly a wife is esteemed. She is, we said, the best family investment. To be forced to surrender her would therefore be a very efficient sanction against perjury. It may very well be the high esteem for the value of a wife and the need of a strong sanction that gave rise to the *khatun-tallkh* long before Islamism appeared on Caucasian soil, and perhaps belongs to a common substratum of ancient Arabian culture and Caucasian customary law. [177]

Although the question regarding the guardianship of children after divorce has not been studied, we may conjecture that Lesghian *adats* restrict the right to the father alone. Guardianship, as a general rule, in primitive societies, follows the norms of inheritance: in patrilineal families the children remain with the father, in matrilineal, with their divorced mother. Since inheritance is fundamentally patrilineal according to ancient customary law of the Lesghia[illegible] we feel justified in making this hypothetical assumption.[21] 586 [428]

The women of the neighbouring peoples enjoy about the same rights of divorce as do the North Caucasian women. Everywhere they are at a disadvantage.

SOUTHERN CAUCASIANS. Eristov tells us that during his time the Georgian mountain tribes would divorce their wives for the least provocation. It happened now and then that a week after marriage the bride would not turn out to be as pleasing as the groom had imagined, or as good a housekeeper as the groom's family hoped for; such a disappointment was sufficient to occasion a divorce.[22] She could also be dismissed for superficiality, theft, or laziness.[23]

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[20] Kovalevskij, *Zakon*, II, p. 127.

[21] *Cf.* Abercromby, *op. cit.*, p. 97, who believes that the Avars do not have a fixed rule in this regard.

[22] Eristov, *op. cit.*, pp. 112 f.

[23] Seidlitz, "Gemeinde- und Familienleben der Chewsuren," *Das Ausland*, 1891, No. 17, p. 336. If the woman had a son, it was much more difficult to divorce her (a custom of the Pshavs), *cf.* Makalatija, "Iz starogo narodnago byta Pšavov," p. 109.

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(14) Then there is the fact that *a woman constitutes an asylum* for any murderer,[27] a fact found among the North Caucasians as well as among the Asiatic nomads.

(15) The *adats regarding divorce*,[28]

(16) the *penalties for sexual offenses*,[29]

(17) the *division of labour*,[30] allowing men plenty of time for loafing, sport, and raids,

(18) and many other *adats which place the female sex at a great disadvantage*[31] remind us very much of a pastoral society.

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(19) Then, of course, there are the many other features of the North Caucasian marriage and family *adats* which we have been able only to touch upon rather superficially, for they refer to the joint-family and kinship in general rather than to the biological family. The North Caucasian society, for example, has had till recently a *patriarchal joint-family organization*[32] very similar to that found among pastoral nomads. Just as among the Indo-Europeans and the Turco-Mongols the central interest of the North Caucasian has been, and in places still is, the joint-family. According to the *adats*, the individual family, till it becomes independent, plays a very subordinate part in society. The tribe and state mean but little. Crimes, criminals, and penalties in the strict sense of the word are of very recent origin: any damage done to the sib (not so much to any individual!), whether accidental or intentional, are the only form [681] of "crime" found in the *adats*. The reparation of the damages made by the "offending" sib (not the individual who inflicted the harm) corresponds to our [428] concept of penalty. We have also said very little about the *inheritance rights* of the mountaineers of North Caucasia, for to speak of inheritance without first describing the joint-family and kinship *adats* would be impossible. It seems that originally, just as is the case in pastoral nomadic societies, the rights were restricted to the male children with special privileges reserved for the first-born [628] son. Finally, there is hardly another place in the world where *blood-feuds* are so common as in the Caucasus; and, we know, pastoral nomadic peoples have always been fond of settling their quarrels in this particular manner, more so than any other people. In a word, we are dealing with a "pastoral nomadic" marriage and family when we deal with North Caucasian marriage and family *adats*.

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We must however, keep in mind that there are different zones of intensity of nomadic traits: in North Caucasia the most pastoral nomadic in character are the marriage and family of the Cherkess; then perhaps follow those of the Abkhaz, then the Chechens, and finally the Lesghians. The Ossetine *adats* are perhaps even more typically pastoral nomadic than those of the Cherkess. The Kumykian and Nogain *adats*, as well as those of other Turco-Mongols of North Caucasus,

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[27] *Supra*, pp. 159 f.
[28] *Supra*, pp. 132—137.
[29] *Supra*, pp. 168—179, 182.
[30] *Supra*, pp. 156—159.
[31] *Supra*, pp. 152—156.
[32] *Supra*, pp. 44 f.

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(6) The *maternal uncle* appears on the scene in marriage and family affairs as an important figure. A special part of the bride price (*madi-arvadai-kal*) of the Ossetes is reserved for the maternal uncle.[56] Among the Ingushi and a number of other tribes in North Caucasia, if someone drinks to the health of his friend's sister and then gives him a present, the friend is obliged to arrange a marriage between his sister and his friend, otherwise a blood-feud will be the result. This custom, as we have said, overrules even the inviolable *patria potestas* and all the *adats* regarding the choice of mates. It is, as it were, an acceptance of the bride price by the brother (" maternal uncle ") without handing the bride over to the purchaser.[57] Moreover, an Ingush lad, after reaching the age when he is allowed to carry arms, has a right to a special present from his maternal uncle. In fact, the youth may go and steal the present with impunity, because he has a *right* to it.[58] This, I think, may very easily be a vestige of a former inheritance rule through the maternal uncle.[59] The Khevsur orphan automatically falls to the guardianship of the maternal uncle.[60] Kovalevskij conjectures that the Georgian institution known as *tsatsali*[61] may be a vestige of the custom to adopt a maternal uncle.[62]

Kovalevskij, Post and other ethnologists of the 19th century " found " an astoundingly large number of " undeniable " vestiges of a former matriarchal culture in the Caucasus. Any custom that would fit into the false principle " mater certa, pater incertus " was " infallibly " a matriarchal vestige. Thus the *atalyk*,[63] the taboos forbidding a father to carry his own child, the prohibition for anyone to ask about the health of another person's wife or child, etc.[64] were all " vestiges " of former matriarchy. The Cherkess *tleush*[65] and the Ingush *taipa*[66] were likewise " vestiges." Kovalevskij's article " La famille matriarcale au Caucase "[67] is a typical example of the matriarchy mania under which the scientists of the past century laboured. Every now and then they would come across a true vestige or a possible indication of matriarchy or mother-right, and these we have incorporated in the present work. The other " vestiges " we have rejected and offered other, more plausible explanations and interpretations.

Russian interest in the problem of mother-right has again been revived. The Russian ethnologist maintains that matriarchy was universal at one time: it was a stage through which all civilizations had to pass, while patriarchy is only

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[56] *Supra*, p. 87.

[57] *Supra*, p. 101. A Berže, Čečnja i čečency, p. 98; Leontovič, II, pp. 251 f, § 149; Kovalevskij, " La famille matriarcale au Caucase," *L'Anthropologie*, IV (1893), pp. 271 f.

[58] Jakovlev, *Ingušі*, p. 47.

[59] This seems to be a genuine vestige.

[60] Kovalevskij, *op. cit.*, p. 273. The maternal uncle also plays an important part in the Khevsurian blood-feuds (Hahn, *Aus dem Kaukasus*, p. 273).

[61] *Supra*, p. 182.

[62] Kovalevskij, *l. c.*

[63] *Supra*, p. 57.

[64] *Supra*, pp. 149 f, 162—167.

[65] *Supra*, p. 55.

[66] *Supra*, p. 84.

[67] *L'Anthropologie*, IV (1893), pp. 259—278. See also Kovalevskij's *Zakon*, I, pp. 3—27.